

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MARYLAND
(Northern Division)**

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PLUMBERS AND STEAMFITTERS
LOCAL 486 MEDICAL FUND,
by its Trustee,
Bernard J. Vondersmith

*

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*

Plaintiff/Counter-Defendant

*

v.

* Civil Action No. MJG 03-219

RITA L. BOOKS, et al.

*

Defendants/Counter-Plaintiffs *

* * * * *

**MOTION FOR EXTENSION OF TIME TO RESPOND
TO**

**PLAINTIFF PLUMBERS & STEAMFITTERS LOCAL 486 MEDICAL FUNDS
MOTION FOR SUMMARY JUDGMENT
(filed on June 23, 2003)
and**

**PLAINTIFF'S MOTION TO DISMISS THE COUNTERCLAIM OF ROGER AND RITA BOOKS,
OR IN THE ALTERNATIVE, FOR SUMMARY JUDGMENT
(filed on June 26, 2003)**

RITA L. BOOKS and ROGER BOOKS (Defendants/Counter-Plaintiffs), by their undersigned counsel Nathaniel Fick, and proceeding under applicable rules, here submits this Motion for Extension of Time to Respond to Plaintiff/Counter-Defendant's Motion for Summary Judgment, and Motion to Dismiss Counter-Claim or in the alternative, Motion for Summary Judgment and states as follows::

1. By pure chance, a phone call was made to the Clerk of this Court inquiring as to the status of a Motion in another case filed with this Court; it was discovered that this office was not receiving e-mail notifications of filings, even though

this Court has receipts. Upon further investigation with two Deputy Clerks, it was determined that due to "spam guards and certain filters", the e-mail notifications as structured and sent by the Court (*using CC: rather than primary TO: designations for counsel*) may be blocked. (See attached Affidavits of Nathaniel Fick, Esquire and Carolyn M. Coté, Paralegal to Nathaniel Fick).

2. Although the Motion and its attachments have Certificates of Service, no such papers were ever received into this office.
3. A call was promptly put through to Corey Bott, counsel for Plumbers and Steamfitters Local 486 Medical Fund, to advise of this discovery, and the circumstances under which movant learned of the filing of the motions that had been filed on June 23rd and June 26th.
4. Ms. Bott advises that she cannot join in or grant assent to an extension of time, and will actively oppose any extension of time for responding to the Motion to Dismiss Counterclaim.
5. No prejudice has occurred to Plaintiff/Counter-Defendants.
6. There was no act or failure on the part of counsel for Defendant/Counter-Plaintiffs causing this problem with receiving the documents or notification of their electronic filing.
7. The interests of justice for all parties are best served by the extension here requested.
8. An extension for time to reply is requested to Wednesday, July 30, 2003, providing the same 14 days from this date (date upon which first notice

actually exists), in accordance with Local Rule 105(2)(a). Local Rules of the United States District Court for the District of Maryland.

WHEREFORE, attorney for Defendants/Counter-Plaintiffs respectfully request that this Court grant an extension of time within which to answer the pending motions, *Plaintiff Plumbers & Steamfitters Local 486 Medical Funds Motion for Summary Judgment* (filed on June 23, 2003) and *Plaintiff's Motion to Dismiss the Counterclaim of Roger and Rita Books, or in the Alternative, for Summary Judgment* (filed on June 26, 2003) .

RESPECTFULLY SUBMITTED,

Date: 7/16/03

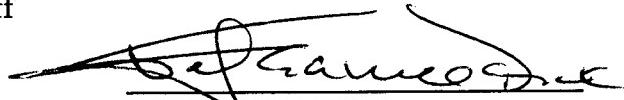
Nathaniel Fick
NATHANIEL FICK
Bar No. 01822
Fick & Petty
1426 East Joppa Road
Towson, Maryland 21286-5982
410-321-6000
Attorney for Defendant/Counter-Plaintiff

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 16th of July, 2003, I mailed, postage prepaid, a copy of this Motion for Extension of Time to Respond to Plaintiff/Counter-Defendant's Motion for Summary Judgment, and Motion to Dismiss Counter-Claim or in the alternative, Motion for Summary Judgment On Behalf of Rita L. Books and Roger Books, to:

COREY SMITH BOTT, Esquire
Abato, Rubenstein and Abato, P.A.
809 Gleneagles Court, Suite 320
Baltimore, MD 21286

Attorney for Plaintiff



NATHANIEL FICK

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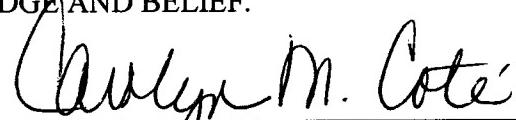
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AFFIDAVIT OF CAROLYN M. COTÉ

1. My name is Carolyn M. Coté. I am Paralegal to Nathaniel Fick, counsel for Rita L. Books and Roger Books. I am over the age of eighteen (18), am not a party to this case and am competent to testify.
2. On Wednesday, July 16, 2003, I called the Clerk's Office to inquire as to the disposition of a motion in a different matter (Doughty v. Godfrey, AMD02 CV 3473. I spoke to a clerk who informed me that it had been ruled upon and e-mailed to counsel on the same day it was filed (July 10, 2003) and that there had been subsequent filings by the Court.
3. I told Mr. Fick what had been said to me . Mr. Fick reviewed his e-mail and stated that he did not have any e-mail notifications from the Court. He asked that I call the Court again and ask that they check into this matter.
4. I called again and was transferred to Janet Bucker, Deputy Clerk, for whom I left a voice message.
5. Janet Bucker called me back and said that she would let the right people know and have them check on their end. I asked if she could send a test e-mail and was told that they are not allowed to do that.

6. Minutes later, Tina Gates, Deputy Clerk, called. She said that she had been notified of the situation. She asked me if we had spam or junk mail filters on the computers as it can block the e-mail notifications from the Court. I knew that we did and immediately turned the call over to Mr. Fick.
7. I then decided to check on this case and went into the docket and found the motions that had been filed on June 23rd and June 26th. I immediately made Mr. Fick aware of the situation.

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY UNDER UNITED STATES LAWS THAT THE FOREGOING INFORMATION IN THE AFFIDAVIT IS TRUE AND CORRECT TO MY KNOWLEDGE AND BELIEF.



Carolyn M. Cote
Paralegal to Nathaniel Fick

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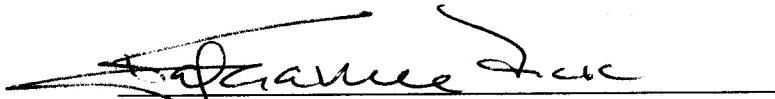
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AFFIDAVIT OF NATHANIEL FICK

1. My name is Nathaniel Fick. I am counsel of record for Rita L. Books and Roger Books. I am over the age of eighteen (18), not a party to this case and am competent to testify.
2. On Wednesday, July 16, 2003, I was advised by my paralegal, Carolyn Coté, of a call she had made to the Clerk's Office to inquire as to the disposition of a motion in a different matter — Doughty v. Godfrey, AMD02 CV 3473. She advised me that she had spoken with a clerk who informed her that a motion in that case had been ruled upon, with notification to counsel e-mailed on the same day it was filed (July 10, 2003), and that there had been subsequent filings by the Court.
3. Upon learning this, I promptly reviewed all of my e-mail records/logs/entries/files for the relevant period of time indicated by this inquiry. I determined that I had not received any e-mail notifications from the Court. We pursued the matter further with appropriate personnel with the Court.
4. Ultimately, I was advised by Tina Gates, Deputy Clerk, that any spam or junk mail filters on our Fileserver, Communications Server, or E-mail system would block the e-mail notifications from the Court. She further advised that she has seen this problem many times and is there to assist attorneys who experience these problems with electronic filing and notification.

7. To this date I had received no notice, no copies, no mailings, and had no awareness that the subject motions had been filed on June 23rd and June 26th.

I SWEAR OR AFFIRM UNDER PENALTY OF PERJURY UNDER UNITED STATES LAWS THAT THE FOREGOING INFORMATION IN THE AFFIDAVIT IS TRUE AND CORRECT TO MY KNOWLEDGE AND BELIEF.



Nathaniel Fick